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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SERAFIN LOPEZ HERNANDEZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 03-74121

Agency No. A74-801-524

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted May 20, 2008<sup>\*\*</sup>

Before: PREGERSON, TASHIMA and GOULD, Circuit Judges.

Serafin Lopez Hernandez, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen deportation proceedings. We have jurisdiction pursuant to 8 U.S.C. § 1252.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We review for abuse of discretion the denial of a motion to reopen. *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Lopez Hernandez's motion to reopen as untimely because it was filed more than eleven months after the BIA's final order. *See* 8 C.F.R. § 1003.2(c)(2) (motion to reopen must be filed within 90 days of final administrative decision).

Contrary to Lopez Hernandez's contention, the BIA considered and rejected his equitable tolling claim in denying the motion as untimely.

**PETITION FOR REVIEW DENIED.**